

K&L GATES

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BY ECF

Honorable Lewis A. Kaplan
United States District Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

**Re: In re: Customs and Tax Administration of the Kingdom of Denmark
(SKAT) Tax Refund Litigation, Docket Number 18-md-02865-LAK,
Related Actions 18-cv-9797, 18-cv-10100**

Dear Judge Kaplan:

On behalf of the defendants in the above-referenced related actions (18-cv-09797 and 18-cv-10100) (the “Defendants”), we write for leave to seal the Defendants’ opposition to Plaintiff SKAT’s Motion for Issuance of a Request for International Judicial Assistance to Obtain Evidence in Denmark (the “Letters Rogatory Motion”).

On October 31, 2018, SKAT requested by letter permission to file the Letters Rogatory Motion under seal on the basis that it identified the “Whistleblower” and described documents provided to SKAT by the Whistleblower (the “Whistleblower Information”), which are being maintained as confidential in Denmark. *See* SKAT’s Letter Motion to Seal (18-md-2865, Doc. No. 13). On November 13, 2018, the Court endorsed SKAT’s letter. *See* Order granting Letter Motion to Seal (18-md-2865, Doc. No. 19) (the “Sealing Order”). SKAT filed the Letters Rogatory Motion on November 30, 2018. *See* Letters Rogatory Motion (18-md-2865, Doc. No. 39). The Defendants have maintained the confidentiality of the Whistleblower Information pursuant to the Order and SKAT’s requests to Defendants.

On December 21, 2018, Defendants filed an opposition to the Letters Rogatory Motion (18-md-2865, ECF Doc. No. 56) (the “Opposition”). The Opposition discusses the Whistleblower Information. In light of the Sealing Order, Defendants filed by ECF a redacted version of the Opposition. Defendants also attempted to file the original unredacted Opposition under seal with the Court’s Records Management Clerk (the “Clerk”) as required by Section 6 of the Court’s Electronic Case Filing Rules & Instructions. The Clerk, however, rejected Defendants’ original version of the sealed Opposition. The Clerk reviewed the Sealing Order and determined that in their opinion it only applied to SKAT’s Motion and therefore, did not

require any opposition to the Motion to be filed under seal. The Clerk attempted to contact your Chambers for clarification but was unsuccessful. Even though the Clerk would not accept the unredacted Opposition, on December 21, Defendants served a copy of the unredacted Opposition on counsel of record for all parties and provided courtesy copies of the same to your Honor.

In light of the forgoing, and in order to comply with the Sealing Order, Defendants hereby respectfully request permission to seal its Opposition. If allowed, Defendants will resubmit the Opposition to the Clerk to be maintained under seal along with SKAT's Letters Rogatory Motion. Also, it is our understanding that SKAT intends to file a reply to the Opposition on or before January 4, 2019. Accordingly, Defendants request that any subsequent filings by any party containing the Whistleblower Information be allowed to be filed under seal until such time as sealing will no longer be necessary. We have conferred with counsel for SKAT, who does not object to the above requests. We have also contacted Mark Allison, counsel for the large majority of defendants and lead counsel for the consolidated defendants, who has assented to the above requests on behalf of his clients.

Thank you.

Respectfully submitted,



John C. Blessington

cc: All counsel of record by ECF